

GRANT P. FONDO (SBN 181530)
GFondo@goodwinlaw.com
GOODWIN PROCTER LLP
601 Marshall Street
Redwood City, CA 94063
Tel.: +1 650 752 3100
Fax: +1 650 853 1038

AMANDA H. RUSSO (SBN 319617)
ARusso@goodwinlaw.com
GOODWIN PROCTER LLP
601 S. Figueroa Street, 41st Floor
Los Angeles, CA 90017
Tel.: +1 213 426 2500
Fax: +1 213 623 1673

Attorneys for Respondent
PAYWARD VENTURES, INC., d/b/a
KRAKEN OR KRAKEN.COM

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

PAYWARD VENTURES INC., d/b/a
KRAKEN OR KRAKEN.COM, OR ITS
PREDECESSORS, SUBSIDIARIES,
DIVISIONS, OR AFFILIATES,

Respondent.

Case No. 3:23-MC-80029-JCS

**DECLARATION OF GRANT P. FONDO
IN SUPPORT OF PAYWARD
VENTURES, INC.'S AMENDMENT TO
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PORTIONS OF ITS
OPPOSITION TO PETITION TO
ENFORCE INTERNAL REVENUE
SERVICE SUMMONS AND
SUPPORTING DECLARATION**

Date: May 19, 2023
Time: 9:30 a.m.
Courtroom: F (15th Floor)
Judge: Hon. Joseph C. Spero

DECLARATION OF GRANT P. FONDO

I, Grant P. Fondo, do hereby declare and state as follows:

1. I am a partner in the law firm of Goodwin Procter LLP, counsel of record for Payward Ventures, Inc., d/b/a Kraken or Kraken.com (“Kraken”) in the above-entitled case. I am licensed to practice law in the State of California, and I am duly admitted to practice in the U.S. District Court for the Northern District of California. I submit this declaration in support of Kraken’s Amendment to its Administrative Motion to File Under Seal Portions of Opposition to Petition to Enforce the IRS Summons and Supporting Declaration. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and would competently testify to the matters set forth herein.

2. The portions identified in the following document contain Kraken’s confidential business information:

Document	Portions of Document to be Sealed	Party Claiming Confidentiality
Opposition to Petition to Enforce Internal Revenue Summons (ECF No. 16)	Portions highlighted in yellow	Kraken
Declaration of Todd Siemers in Support of Opposition to Petition to Enforce Internal Revenue Summons (ECF No. 16-4)	Portions highlighted in yellow	Kraken

3. The materials identified above (the “Redacted Materials”) contain references to Kraken’s confidential and proprietary business information regarding the innerworkings of Kraken’s IT department and processes, including its functionality and technological and analytical capabilities surrounding the organization, query and analysis of information on its systems.

4. I understand that information regarding Kraken’s internal systems and IT functionality and analytical capabilities like those identified in the Redacted Materials are confidential and not shared publicly.

5. I understand that the public disclosure of Kraken’s confidential business information could lead to substantial harm to users and Kraken’s business interests and competitive standing.

1 Given the nature of the information, if publicly disclosed it could substantially harm Kraken and
2 its users by providing potential cyberattacks insight into its data storage practices and protocols and
3 creating an increased security risk. This increased risk could jeopardize users' digital assets, as
4 well as Kraken's goodwill and competitive standing with its clients in light of that threat.
5 Revelation of this information could also put it at a significant competitive disadvantage if Kraken's
6 competitors were to understand the precise capabilities of its systems—not to mention affect the
7 trade secret nature of those systems.

8 6. A less restrictive alternative than sealing would not be sufficient because the
9 information sought to be sealed is Kraken's confidential business information, the public disclosure
10 of which leads to the concerns mentioned above.

11 7. On April 24, 2023, the undersigned reached out and had initial conversations with
12 the government as to the redacted information. Based on a miscommunication, the initial Motion
13 to File Under Seal was filed on Monday, April 24, one court day after the filing of its Opposition
14 and supporting Declaration, with the accompanying portions of the documents for which Kraken
15 requested sealing. The timing of the filing was inadvertent, and no tactical advantage was sought
16 by the Monday filing. The unredacted versions of the Opposition and supporting Declaration were
17 sent to the Government on Monday morning (April 24) at 8:29 a.m.

18 8. On April 24, 2023, the parties discussed some of Kraken's redactions; the
19 government initially identified a few categories of concern, and Kraken agreed to re-consider
20 certain redactions. The parties continued to meet and confer in order to determine whether the
21 parties could reach agreement as to at least some of the proposed redactions.

22 9. Following meet and confer calls with the Government, counsel for Kraken worked
23 in good faith to re-analyze the portions of the documents which it now seeks to seal and
24 substantially narrowed the categories of information it sought to seal. However, on April 27, 2023,
25 the Government informed counsel for Kraken that it was unable to agree to the more limited
26 redactions and filed its Opposition.

27 //

28 //

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 2nd day of May, 2023 in Redwood City, California.

Grant P. Fondo